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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/668,811	09/23/2000	Wyatt Price Hargett JR.	1700.80A	2650

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EXAMINER

- MEREK, JOSEPH C

ART UNIT PAPER NUMBER

3727

DATE MAILED: 07/31/2003

14

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/668,811

Applicant(s)

HARGETT ET AL.

Examiner

Joseph C. Merek

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 May 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 17-32 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 17-32 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 September 2000 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

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Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 17-31 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-6 of U.S. Patent No. 6,287,526. Although the conflicting claims are not identical, they are not patentably distinct from each other because the plug or choke portion of the cap of the patent is not claimed as cylindrical. It would have been obvious to make it cylindrical to allow for insertion to the cylindrical housing or shell of the vessel.

Claim 32 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-6 of U.S. Patent No. 6,287,526 in view of 6,136,276. Regarding claim 32, 6,287,526 does not teach the frame flexing for venting. 6,136,276 teaches the frame flexing for the venting. It would have been obvious to employ this structure in the frame of '526 to prevent the container from rupturing.

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Claims 23 and 25-31 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-6 of U.S. Patent No. 6,287,526 in view of Bennett (US 5,427,741). Regarding claims 23, and 25-31, 6,287,526 does not teach specific wound layers. Bennett, as seen in Fig. 4, teaches the wound layers. The reinforcement 31 around the inner liner has three wound layers separated by plastic layers. It would have been obvious this structure in the vessel of '526 to provide for a stronger vessel.

Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "choke cylinder having an outer diameter and inner walls" must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 17-22 and 27-31 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject

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matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Regarding claim 17, it has not been adequately disclosed that the choke cylinder has an outer diameter and inner walls.

The original disclosure stated that the choke cylinder had inner walls but did not discuss or disclose any specifics for the inner walls or where they are found on the choke cylinder. Moreover, the drawings show a choke cylinder that has only an outer diameter. This is a new matter rejection. Regarding claim 27, "a structural polymer layer between on said wound layer" is claimed. It is not clear how the polymer is between and on. The remaining claims are included since they stem from rejected claims.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

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Claims 17, 18, and 20-22 are rejected under 35 U.S.C. 102(b) as being anticipated by Lautenschlager (DE9309355). Regarding claim 17, see Fig. 2 where the structure is shown. The inner walls are not required since they represent new matter. Moreover, Fig. 2 shows the same structure that is shown in Fig. 2 of the instant invention. The pressure in the cylinder will exert pressure on the walls of the choke cylinder. Regarding claim 18, the housing and the cap are made of Teflon as described on page 7. Regarding claim 20, the frame is 30A. Regarding claim 21, 31 is the adjustable tightening means. Regarding claim 22, 31 is the threaded bolt in the threaded opening.

Claims 17-32 are rejected under 35 U.S.C. 102(e) as being anticipated by Hargett, Jr. (US 6,287,526). Regarding claims 17-32, all the claimed structure is either in the reference or incorporated by reference from the other patents or applications cited in the reference.

The applied reference has a common inventor (Hargett, Jr.) with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention "by another," or by an appropriate showing under 37 CFR 1.131.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 19, 23-28, 30, and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lautenschlager in view of Bennett (US 5,427,741). Regarding claims 19 and 23, Lautenschlager does not teach the outer layer of the vessel 23 having a wound layer. Bennett as seen in Fig. 1 and 4, teaches a similar structure where the outer reinforcement 31 has at least one wound layer. It would have been obvious to employ the wound layer of Bennett in the outer layer of Lautenschlager to make the outer layer stronger or to provide for a stronger vessel as taught by Bennett. Regarding claim 24, the choke cylinder of Lautenschlager has an outer diameter that is substantially the same as the vessel. There is no structure lacking in the combination of references to perform the self-sealing function. Regarding claim 25, see Fig. 2 of Lautenschlager where the bolt and the threaded opening are shown. Regarding claim 26, see page 7 of Lautenschlager where the cap and the vessel are made of Teflon. Regarding claim 27, the materials of the modified vessel of Lautenschlager are microwave transparent. As seen in Fig. 4 of Bennett the outer jacket 23 of the modified vessel of Lautenschlager has layers of polymeric material on both the inner and outer surfaces of the yarns or filaments of the wound layer. These are structural layers. Regarding claim 28, see Fig. 4 of Bennett where the pairs of layers are shown that are

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in the modified sleeve of Lautenschlager. There are polymer layers on the outside of the wound layers and there is a polymer layer between adjacent wound layers. The filaments are textiles as defined by applicant on page 6 of the instant invention.

Regarding claim 30, the textile layers are filaments or yarns. The limitation yarn does not require any structure that is not in the combination of references. Regarding claim 32, see Fig. 2 of Lautenschlager where 32 is considered part of the frame that allows for pressure release and in combination with 30a supports the vessel and the cap in a closed position.

Claim 29 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lautenschlager in view of Bennett as applied to claim 28 above, and further in view of Broerman (US 3,426,940). Regarding claim 29, the modified vessel of Lautenschlager does not teach the fabric layers. Broerman teaches using a fabric to reinforce a pressure vessel. It would have been obvious to employ the fabric of Broerman in the vessel the Lautenschlager to provide for an alternative reinforcing material.

Claims 17, 18, and 20-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lautenschlager (DE 9309355) in view of Boeteers (DE 9311661). Regarding claim 17, to the degree that the inner walls are not new matter, Lautenschlager does not teach the inner walls. Boeteers teaches a choke cylinder with the inner walls. It would have been obvious to employ the inner walls of Boeteers in the plug cap of Lautenschlager to provide a better seal or an alternative closure design. Regarding claim 18, the housing and the cap are made of Teflon as described on page

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7. Regarding claim 20, the frame is 30A. Regarding claim 21, 31 is the adjustable tightening means. Regarding claim 22, 31 is the threaded bolt in the threaded opening.

Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lautenschlager in view of Boeteers as applied to claim 17 above and further in view of Bennett (US 5,427,741). Regarding claim 19, the modified vessel of Lautenschlager does not teach the outer layer of the vessel 23 having a wound layer. Bennett as seen in Fig. 1 and 4, teaches a similar structure where the outer reinforcement 31 has at least one wound layer. It would have been obvious to employ the wound layer of Bennett in the outer layer of the modified vessel of Lautenschlager to make the outer layer stronger or to provide for a stronger vessel as taught by Bennett.

Claims 23-28, 30, and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lautenschlager in view of Bennett (US 5,427,741) and further in view of Boeteers. Regarding claim 23, to the degree that the cap must have the inner walls to provide the self-sealing feature, then the vessel of Lautenschlager as modified by Bennett does not teach this structure. Boeteers teaches a choke cylinder with the inner walls. It would have been obvious to employ the inner walls of Boeteers in the plug cap of Lautenschlager to provide a better seal or an alternative closure design. Regarding claim 24, the choke cylinder of Lautenschlager has an outer diameter that is substantially the same as the vessel. There is no structure lacking in the combination of references to perform the self-sealing function. Regarding claim 25, see Fig. 2 of Lautenschlager where the bolt and the threaded opening are shown. Regarding claim 26, see page 7 of Lautenschlager where the cap and the vessel are made of Teflon.

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Regarding claim 27, the materials of the modified vessel of Lautenschlager are microwave transparent. As seen in Fig. 4 of Bennett the outer jacket 23 of the modified vessel of Lautenschlager has layers of polymeric material on both the inner and outer surfaces of the yarns or filaments of the wound layer. These are structural layers.

Regarding claim 28, see Fig. 4 of Bennett where the pairs of layers are shown that are in the modified sleeve of Lautenschlager. There are polymer layers on the outside of the wound layers and there is a polymer layer between adjacent wound layers. The filaments are textiles as defined by applicant on page 6 of the instant invention.

Regarding claim 30, the textile layers are filaments or yarns. The limitation yarn does not require any structure that is not in the combination of references. Regarding claim 32, see Fig. 2 of Lautenschlager where 32 is considered part of the frame that allows for pressure release and in combination with 30a supports the vessel and the cap in a closed position.

Claims 23-32 are rejected under 35 U.S.C. 103(a) as being obvious over Hargett, Jr. et al in (US 6,287,526) view of Hargett, Jr. (US 6,287,526). The applied reference has a common inventor with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art only under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 103(a) might be overcome by: (1) a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not an invention "by another"; (2) a showing of a date of invention for the claimed subject matter of the application which corresponds to subject matter disclosed but not claimed in the reference, prior to the effective U.S. filing

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date of the reference under 37 CFR 1.131; or (3) an oath or declaration under 37 CFR 1.130 stating that the application and reference are currently owned by the same party and that the inventor named in the application is the prior inventor under 35 U.S.C. 104, together with a terminal disclaimer in accordance with 37 CFR 1.321(c). For applications filed on or after November 29, 1999, this rejection might also be overcome by showing that the subject matter of the reference and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person. See MPEP § 706.02(I)(1) and § 706.02(I)(2).

Regarding claim 23, Hargett, Jr. et al does not teach the cap having the bevel. Hargett, Jr. '526 teaches the cap having a bevel. It would have obvious to employ the bevel of Hargett, Jr. in the vessel of Hargett, Jr. et al '276 to provide additional sealing surfaces between the cap and the vessel. The braided layers of Hargett, Jr. et al '276 are wound layers. Moreover, Hargett, Jr. et al '276 teaches using the same reinforcement layers as Barnett above. It would have been obvious to employ this reinforcement for an alternative form of reinforcement. Additionally, Hargett, Jr. '526 teaches the specified layers of the sleeve. It would have been obvious to employ these layers for an alternative form of the sleeve. Regarding claim 32, the frame of Hargett, Jr. et al '276 allows for the cap to vent excess pressure by flexing.

Response to Arguments

Applicant's arguments with respect to claims 17-32 have been considered but are moot in view of the new ground(s) of rejection.

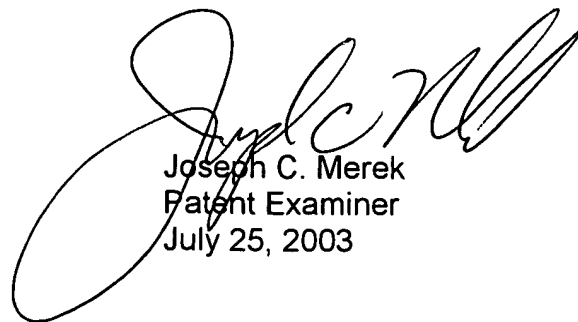
Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Bartels, Saville, Bergulnd, Davis et al, Simmons et al, and Hulkarvi et al are all cited for teaching pressure vessel with layers. Hargett, Jr. et al (10,064,718) is cited as a related case that is a continuation of 09/260,209 that is the parent of the instant invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph C. Merek whose telephone number is (703) 305-0644. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lee Young can be reached on (703) 308-2572. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-3579 for regular communications and (703) 308-3579 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.



Joseph C. Merek
Patent Examiner
July 25, 2003